

Members

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Rep. Robert Behning  
Rep. Robert Kuzman  
Rep. Trent Van Haaften  
Sen. Luke Kenley  
Sen. Sue Landske  
Sen. Rose Antich-Carr  
Sen. Anita Bowser  
Mr. Gene Leeuw  
Professor William Harvey  
Mr. Michael O'Brien  
Chief Justice Randall Shepard  
Attorney General Steve Carter  
Secretary of State Todd Rokita  
Judge James S. Kirsch



## CODE REVISION COMMISSION

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John Stieff, Attorney for the Commission

Authority: IC 2-5-1.1-10

### MEETING MINUTES<sup>1</sup>

Meeting Date: October 31, 2005  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 233  
Meeting City: Indianapolis, Indiana  
Meeting Number: 2

**Members Present:** Sen. Sue Landske; Sen. Anita Bowser; Rep. Robert Behning;  
Rep. Ralph Foley; Rep. Trent Van Haaften; Gene Leeuw;  
Michael O'Brien; Chief Justice Randall Shepard; Steve Carter;  
Todd Rokita; James S. Kirsch.

**Members Absent:** Sen. Luke Kenley; Sen. Rose Antich-Carr; Rep. Robert Kuzman;  
Professor William Harvey.

**Staff Present:** Mr. John Stieff, Director, Office of Code Revision, Legislative  
Services Agency; Ms. Rebecca Mortell, Deputy Director, Office  
of Code Revision; Mr. Craig Mortell, Deputy Director, Office of  
Code Revision; Mr. George Angelone, Deputy Director, Office of  
Bill Drafting and Research; Mr. John Rowings, Director, Office  
of Bill Drafting and Research; Mr. Ed Gohman, Attorney, Office  
of Bill Drafting and Research; Mrs. Susan Kennell, Attorney,  
Office of Bill Drafting and Research; Mr. Andrew Hedges,  
Attorney, Office of Bill Drafting and Research; Mr. Steve  
Wenning, Attorney, Office of Bill Drafting and Research; Mr.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

**Dick Sheets, Editorial Assistant, Office of Code Revision; Mrs. Jessica Smith, Editorial Assistant, Office of Code Revision.**

## **I. CALL TO ORDER**

The meeting convened at 10:10 a.m.

## **II. INTRODUCTORY REMARKS**

Mr. John Stieff, Director, Office of Code Revision, thanked the Commission members for their attendance and asked that the Commission consider approval of and name authors for the following documents:

- (1) The Title 21 recodification.
- (2) The technical corrections bill.
- (3) The seven preliminary drafts regarding corrective legislation for bills enacted in the 2005 legislative session.

## **III. REVIEW OF MINUTES**

The Commission approved by consent the minutes of the Commission's last meeting on September 12, 2005.

## **IV. RECODIFICATION OF EDUCATION FINANCE LAW PROVISIONS**

Mr. George Angelone, Deputy Director, Office of Bill Drafting and Research, discussed the revised outline regarding the Title 21 recodification of education finance provisions. During the previous meeting, he mentioned that a need might exist for a trailer bill to accompany the recodification. However, after further discussion with interested parties, he determined that since no substantive issues existed, a trailer bill would not be necessary. Mr. Angelone thanked several groups, including the Association of Counties, the Budget Agency, and the Department of Education, for reviewing the draft. He said that all the groups agreed that the draft fulfills its intention.

Mr. Angelone noted that the 30 issues that had not previously been resolved were explained in detail in Appendix B of his handout. He said that the new draft of the recodification, PD 3303, included nearly all of the proposed resolutions. After questioning, Mr. Angelone described three instances in which the Legislative Services Agency either recommended that a conflict not be resolved or had no recommendation for resolution. The first issue regarded whether the conflict between IC 21-4-20-1 (tax anticipation loans limited to 50% of projected levy in school cities and school towns) and IC 21-2-21-8 (tax anticipation loans limited to 80% of taxes and state tuition support) should be resolved in the recodification bill. The second issue Mr. Angelone described was whether the conflict affecting county-held common school funds between IC 21-1-3-1 (local option transfer common school fund to the state), IC 21-2-4-5 (transfer the balance to the debt service fund), and IC 21-1-11-3.1 (transfer of loan fund payments to the school disaster loan fund) and IC 21-1-1-1 (no diminishing the common school fund) should be resolved in the recodification bill. The third issue he brought to the Commission's attention was one regarding whether IC 6-1.1-19-6(c) should be deleted as obsolete because it freezes calculations based on 1973 and 1977 law. After discussion, the Committee members decided it best to propose no changes in the current law in these instances.

Mr. Angelone asked for questions or comments. There were none. He proceeded to ask the Commission to adopt PD 3303 and also Appendix D to incorporate unresolved issues into the draft. Representative Robert Behning made a motion to adopt and it was seconded by Senator Sue Landske and Mr. Dave Remondini.

## V. CORRECTIVE LEGISLATION PURSUANT TO 2005 ACTS

Mr. Stieff reported that during the 2005 legislative session, eight bills were enacted that contain noncode sections requiring that the Legislative Services Agency prepare corrective legislation to make conforming statutory changes. He explained that seven bills regarding this corrective legislation were before the Commission and that the eighth bill, which concerns child services legislation, was being considered by another interim study commission. Mr. Stieff noted that the bills did not contain any substantive changes, and he then introduced each of the Office of Bill Drafting and Research attorneys who drafted the seven drafts to explain the corrective legislation. Representative Foley suggested that the Commission vote on the entire package of drafts after all had been discussed.

Mrs. Susan Kennell, Attorney, Office of Bill Drafting and Research, reported that PD 3339 (concerning agriculture and rural development) created two new departments and updated references to the departments.

Mr. Ed Gohman, Attorney, Office of Bill Drafting and Research, distributed a handout and proceeded to describe PD 3057 (concerning tourism), PD 3098 (concerning the Indiana economic development corporation), and PD 3148 (concerning local government).

Mr. John Rowings, Attorney, Office of Bill Drafting and Research, explained that PD 3069 (concerning bond issuing entities) updates names and cross references.

Representative Foley asked the purpose of italicized text in the draft and Mr. Mortell explained its use in conflict preliminary drafts.

Mr. Andrew Hedges, Attorney, Office of Bill Drafting and Research, explained last year's homeland security legislation and said that PD 3323 (concerning homeland security) would correct obsolete references. He noted that he spoke with Mara Snyder, Legal Counsel of the Department of Homeland Security, and that she had suggested additional changes to the draft. She suggested that the Legislative Services Agency do the following:

On page 18, lines 7 and 9, strike the instances of "state fire marshal" and insert "division of fire and building safety, since the Office of State Fire Marshal was eliminated last year and its duties were transferred to the division of fire and building safety. He noted that the state fire marshal position was retained.

On page 31, lines 20-21, reset in roman "executive", delete "department's division" and insert "Department of Homeland Security", and delete "of preparedness and training". These changes were made because the Department of Homeland Security thought that power should be given to the executive director of the Department of Homeland Security because it could administratively move responsibilities around, which would make it inappropriate for the director of the division to attend these meetings. Another reason for the changes was that powers of the public safety institute were transferred in Senate Bill 56 both to the Department of Homeland Security and to a division of the Department of Homeland Security, so membership on the board could go to either the director of the division or to the director's superior, the executive director. Mr. Hedges noted that the Department of Homeland Security felt more comfortable having the executive director be the member.

After some questioning and discussion, the Commission approved of these changes.

Mr. Steve Wenning, Attorney, Office of Bill Drafting and Research, described the 2005 professional licensing legislation and gave examples of changes in PD 3103

(concerning professional licensing). Mr. Remondini inquired whether changing gender references was a Legislative Services Agency policy. Mr. Stieff commented that the agency has been trying to eliminate all the gender references in the Indiana Code for several years. Mr. Michael Reinbolt of the Professional Licensing Agency said that the agency had read the draft and approved the changes.

A motion was made and seconded to adopt each of the corrective legislation preliminary drafts as amended. They were adopted by consent.

## VI. TECHNICAL CORRECTIONS BILL

Craig Mortell, Deputy Director, Office of Code Revision, addressed the Commission regarding the 2006 technical corrections bill. He discussed PD 3304, the "Part B" draft that was intended to be joined with PD 3013 to form the 2006 technical corrections bill. Referring to the SECTION-by-SECTION outline of PD 3304, Mr. Mortell explained that PD 3304 contains:

SECTIONS resolving technical problems that were detected by the attorneys of the Legislative Services Agency's Office of Bill Drafting and Research when they reviewed all of the 2005 acts;  
a few additional conflict resolution SECTIONS addressing conflicts that arose from the 2005 acts and that were not addressed in PD 3013; and  
additional SECTIONS making various technical corrections not made in PD 3013.

Mr. Mortell drew the Commission's attention to the SECTION of PD 3304 amending IC 4-22-2-28.1 and explained that, after conferring with Jason Thompson and James Schmidt, two attorneys in the Attorney General's Office, the Office of Code Revision (OCR) had changed its mind about whether the problems affecting IC 4-22-2-28.1 could be resolved in the technical corrections bill. Mr. Stieff commented that, through its contact with Mr. Thompson and Mr. Schmidt, OCR realized that there was more than one way in which the problems affecting IC 4-22-2-28 could be resolved. Consequently, Mr. Stieff said that addressing those problems in the technical corrections bill would violate the long-standing rule that a problem in a Code section cannot be resolved in the technical corrections bill unless: (1) it is clear that there is a problem; (2) there is only one way in which the problem can be corrected; and (3) the correction will not constitute a substantive change in the law. The Commission, through a motion adopted by consent, directed OCR to delete the SECTION amending IC 4-22-2-28.1 from the 2006 technical corrections bill.

Mr. Mortell also drew the Commission's attention to the SECTION of PD 3304 resolving the conflict arising from IC 20-24-7-11 having been added to the Code in different forms by two 2005 acts, HEA 1001 [P.L.246-2005] and SEA 598 [P.L.169-2005]. He explained that each act added a different subsection (b); that the subsection (b) added by SEA 598 required the department of education *to use* the common school fund interest balance in the state general fund to provide state funds needed to receive federal matching funds for charter school facilities; and that the subsection (b) added by HEA 1001 *appropriated \$10,000,000* from the common school fund interest balance in the state general fund to provide state funds needed to receive federal matching funds for charter school facilities. Mr. Mortell asked whether the Commission perceived a substantive conflict between the two different subsections (b) such as would preclude resolving the IC 20-24-7-11 conflict in the technical corrections bill. Following a discussion, the Commission determined that no such substantive conflict existed and that the 2006 technical corrections bill should include the SECTION resolving the IC 20-24-7-11 conflict.

Finally, Mr. Mortell drew the Commission's attention to a list of changes that were to be made in combining PD 3013 and PD 3304 to form the 2006 technical corrections bill, including deleting the SECTIONS in PD 3013 amending IC 9-29-3-14 and IC 9-29-3-15 according to the decision made by the Commission at the meeting of September 12, 2005, in response to concerns expressed by Heather Willis of the Secretary of State's office. The Commission, by consent, directed OCR to combine PD 3013 and PD 3304, and to make the changes set forth in the list, to form the 2006 technical corrections bill.

## **VII. ADOPTION OF LEGISLATION**

Mr. Stieff asked whether it was the will of the Commission that the following statement appear in the digests of the 2006 bills that were adopted at the meeting:

(The introduced version of this bill was prepared by the Code Revision Commission.)

A motion was made and seconded and it was approved by consent.

Representative Foley then proposed that the text of the corrective legislation bills presented to the Commission earlier in the meeting be merged with the 2006 technical corrections bill. The Commission agreed to Representative Foley's proposal.

Finally, the Commission named authors to the drafts as follows:

Representative Foley would be the first author of the technical corrections bill, while the co-authors would be Representative Robert Behning, Representative Trent Van Haaften, and Representative Robert Kuzman.

Senator Sue Landske would be the first author of the recodification bill, while the co-authors would be Senator Anita Bowser, Senator Luke Kenley, and Senator Rose Ann Antich-Carr.

## **VIII. ADJOURNMENT**

The meeting was adjourned by Representative Foley at 11:31 a.m.